

EXTENSIONS OF REMARKS

THE INTRODUCTION OF THE COMPASSIONATE VISITOR VISA ACT

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 2005

Mr. CASE. Mr. Speaker, I rise today to reintroduce my bill from the 108th Congress that will provide greater flexibility in issuance of temporary visitor visas to the alien relatives of citizens in urgent and compelling circumstances involving those citizens such as life-threatening or terminal health conditions or memorial services. In doing so, we will assure that our own brothers and sisters are provided basic compassion and family unity in their time of need.

The post-9/11 world demands that our immigration policy ensure our national security. So let me say up front that nothing in this bill forecloses U.S. consular prerogatives in that regard.

However, after this prerequisite has been met, we need to provide for a greater accommodation than current law and practice allow of immediate and urgent needs of our own fellow citizens for relatives seeking temporary admission due to extenuating circumstances. Specifically, my bill allows such applicants to overcome the statutory presumption against immigration for a brief stay occasioned by a demonstrated and immediate family obligation or need involving a parent, child, sibling, grandchild, or grandparent.

My office has been involved in numerous cases in which many of my constituents were left heartbroken at the news of a nonimmigrant visa denial for such occasions as to attend a funeral or visit a terminally ill family member. There are also instances where the immediate relative of a U.S. citizen or legal permanent resident has been denied entry into our country to donate a matched organ to a family member.

These families were willing to purchase plane tickets, arrange for accommodations, in short everything anyone of us would do for a visiting loved one. Temporary visa applicants had documentation to prove that they had every reason to return to their country of origin: they maintained homes, businesses, bank accounts, and had other family members, often small children, that would remain behind. Yet it was to no avail, and families were left separated for important, often life-changing, events.

These are some examples:

The parents of a 27-year-old U.S. citizen who was murdered by her husband were barred from attending her funeral, which had to go on with out them. They were thereby prevented from then comforting their 5-year-old granddaughter. All told, they have made over a half-dozen 18-hour bus rides to the U.S. Embassy in Manila to obtain travel visas, only

to have their applications turned down every time as they were deemed to not have sufficiently strong ties to their own country.

A terminally ill naturalized U.S. citizen who has not seen any of her siblings for more than 20 years wanted to see just one of them one last time. A sister had applied for a non-immigrant visa to be able to visit and care for her sibling and, in the process, would voluntarily leave behind her own husband and young children in the Philippines for this purpose. Unfortunately, her visa application was recently denied. The main reason cited was that her husband's income was too modest and she was not currently employed.

A recent article in the Honolulu Advertiser detailed the gripping story of Francisco Guerrero, a U.S. citizen who for the past 6 years has had to undergo dialysis treatment for several hours three times a week in Honolulu, while in the Philippines, his son Glenn, not a U.S. citizen, is willing to donate a life-saving kidney that is considered a near-perfect match. Yet Glenn has been denied a temporary visa to visit the U.S. for the operation because our consulate has determined he does not have a demonstrated intent to return to his country thereafter. I include the text of that article at the end of my remarks today.

These are compelling stories of a well-intentioned Federal immigration policy gone very wrong. I suspect that many of you have similar stories affecting families in your district.

Again, the problem these stories graphically illustrate and the solution my bill offers have nothing to do with preserving our homeland security. These applicants were subject to a security review like other applicants, and nothing in the Compassionate Visitor Visa Act would alter that.

The reason for the rejection of such applications lies instead in the application of the presumption clause in current immigration law. In practice, applicants for nonimmigrant visas are presumed to be at risk of defaulting on their visas and remaining in our country illegally unless they can affirmatively prove that they will return to their countries. In the cases above, the applicants provided documentation to overcome this presumption and demonstrate they had every reason to return to their country of origin: they maintained homes, businesses, bank accounts, and would leave other family members, often children, behind, but to no avail.

The Compassionate Visitor Visa Act says that the presumption clause, as applied to close family members of U.S. citizens or legal permanent residents that are seriously ill or who have died, is wrong and should be changed. It is focused on the wants and needs not of the applicant, but our own fellow citizens.

Opponents of the bill may argue that the result would be to detract from homeland security and enhance the default rate on non-immigrant visas. First, again nothing in this bill

changes or compromises procedures designed to identify and weed out security threats, so that cannot be used as an excuse to avoid the focus of this bill. Second, this bill does not say that consular officers cannot consider evidence of applicants' willingness to honor visa terms and return to their countries, but it does say that the deck won't be virtually impossibly stacked against them from the get-go. And third, this bill applies only in the narrow case of an applicant whose close family member has a serious illness or has died or has some other similar family emergency, as demonstrated by proof to the satisfaction of the consular officers.

I stand here today willing to take the chance of loosening the standard for those most in need because it is the right thing to do. Our U.S. consulates are not entitled to deny an American his or her life. I urge passage of the Compassionate Visitor Visa Act.

[From the Honolulu Advertiser, Feb. 13, 2005]

DENIAL OF VISA STYMIES FILIPINO ORGAN DONORS

(By Frank Oliveri and Vicki Viotti)

For six years, Francisco Guerrero has had his blood cleansed by a machine for several hours three times a week at St. Francis Medical Center in Honolulu because his kidneys have failed.

In the Philippines, his son, Glenn, studies architecture and waits with a life-saving kidney that is considered a near-perfect match for his father. But the U.S. government won't grant the 28-year-old a temporary visa because he can't prove he'll return to the Philippines.

The U.S. Consulate in Manila says the Lawag City resident fits the profile of an undesirable visitor—someone who poses a risk of overstaying a temporary visa because of his background and his homeland's tenuous situation.

Glenn Guerrero has only a part-time job, is relatively poor and already has a pending application to emigrate to the United States.

The Guerreros' plight is not uncommon at St. Francis, the only organ transplant center in the Central Pacific. There are at least 15 Filipino patients there who face the same bureaucratic roadblocks to getting a visa for an organ donor, and all have been rejected. They have all but given up hope of bringing their relatives to the United States for the life-saving surgery. No patients are known to have died while trying to cut the red tape after finding a donor match. But hospital officials said many Filipinos have a rare blood type and die while waiting for a kidney because they never find a match.

The issue, according to interviews with immigration experts, hospital staff, patients and their families, is the intense scrutiny of the visa applications from potential Filipino organ donors since the Sept. 11, 2001, terrorist attacks.

Before 9/11, St. Francis successfully processed about three visa applications a year to bring organ donors to the states. Since then, the immigration laws have stayed the same but officers at the consulate who review applications have gotten tougher. They search

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